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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/823,179

03/29/2001

Winston W. Hodge

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7590

06/12/2006

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EXAMINER

HOYE, MICHAEL W

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 3 and 5-10 drawn to headend control processes including quadrature amplitude modulation (QAM) and quadrature phase shift keying (QPSK), classified in class 725, subclass 146.
  - II. Claims 11-13, 15 and 17-20, drawn to data synchronization, classified in class 370, subclass 503, or class 375, subclass 240.28.
  - III. Claims 31-34 and 46-48, drawn to data flow, classified in class 370, subclass 235.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as for synchronization use within miscellaneous electrical devices and systems, including data processing of speech and linguistics, audio compression/decompression systems, digital computers and digital signal processing systems, which do not require the use of QAM or QPSK transmission formats as used in television/video distribution systems. See MPEP § 806.05(d).

Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the

Art Unit: 2623

instant case, subcombination III has separate utility such as for data flow and quality of service within miscellaneous electrical devices and systems, including data processing of speech and linguistics, audio compression/decompression systems, digital computers and digital signal processing systems, which do not require the use of QAM or QPSK transmission formats which may be used in television/video distribution systems. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Art Unit: 2623

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is **571-272-7346**. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

**Any response to this action should be mailed to:**

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolator, etc.) as follows:

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**Or faxed to: 571-273-8300**

**Hand-delivered responses should be brought to the Customer Service Window at the address listed above.**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Michael W. Hoyer  
May 31, 2006



**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**